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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,924	02/17/2004	Jared Freeman Solomon	102271.000001	1899
29747 7590 06/09/2009 GREENBERG TRAUIG 3773 HOWARD HUGHES PARKWAY SUITE 500 NORTH LAS VEGAS, NV 89169				
EXAMINER				
HU, KANG				
ART UNIT		PAPER NUMBER		
3715				
MAIL DATE		DELIVERY MODE		
06/09/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/780,924

Applicant(s)

SOLOMON, JARED FREEMAN

Examiner

KANG HU

Art Unit

3715

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-12, 14-20, 22 and 24-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-12, 14-20, 22, 24-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2004 and 09 April 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/9/2009 has been entered. Claims 4, 13, 21, 23, and 38 have been cancelled. Claims 1-3, 5-12, 14-20, 22, 24-37 are currently pending in the application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-3, 5-12, 14-20, 22, 24-37 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Re claims 1, 5, 18, 22, 29, 32 and 35, each of the claims recites "means for driving said support arms and clutch units in a generally circular path relative to said central stationary hub" (claim 1); "means for rotating said rotatable member and said rotatable clutch member" (claim 5); "means for rotating said passenger unit circular platform and clutch platform relative to said

central stationary hub” (claim 18); “means for rotating said rotatable planar platform and said rotatable clutch platform relative to said central stationary hub (claim 22); “rotating said radial members about said central stationary hub at a constant velocity... rotating one of said clutch units to alignment with one of said rotating radial members” (claim 29); “means for rotating said one or more support members and clutch units in a generally circular path relative to said central stationary hub” (claim 32); and “means for driving said support arms and clutch units in a generally circular path relative to said central stationary hub” (claim 35); For each of the claims 1, 5, 18, 22, 32 and 35, the claim limitation is presumed to invoke 35 U.S.C. 112, sixth paragraph by using the “means-for” language and meeting the 3-prong analysis set forth in MPEP 2181, subsection I. However, there are no disclosures of the structure for performing the claimed functions in the means-plus-function limitations. To satisfy the written description requirement, the specification must describe the claimed invention in sufficient detail that one of ordinary skill in the art can reasonably conclude that the inventor had possession of the claimed invention. The specification failed to disclose such structure in support the means-plus-function. Specifically the specification as originally filed by the applicant does not provide any teaching of how the outer ring and clutch ring are rotated, either as a whole or separately. Paragraphs 42-45 and the supporting figures 1-5 teaches of a central stationary hub, arms, outer ring and clutch ring. The arms are understood to be supported by either the outer or clutch ring, however the outer and clutch ring are not supported by anything, i.e. as the (clutch units, support arms, rotatable platforms etc.) are separate from each other, namely the support arms having segmented portions allowing the outer portion to continue to rotate while the clutch ring are able to accelerate, decelerate and even stop. All while the inner stationary hub remains stationary. There aren’t any

structure supporting the rotation of the clutch ring, the outer ring, the clutch units, clutch tracks and etc... as these parts are separate from each other, they appear to be floating. The specification failed to provide support having structure to support these parts, let alone rotating them.

Claim 29 recites similar limitation of rotating the radial members about said central stationary hub at a constant velocity... stopping the clutch unit while said radial members continue rotating. The specification originally filed by the applicant failed to convey to one of ordinary skill in the art at the time of invention of how the radial members are allowed to “stay afloat”, or rotate at a constant velocity when the radial members are separate from each other for the same reason as stated above and not repeated herein.

Re claims 1, 18, 32 and 35, the claims recite “means for unloading and loading one or more of said passenger units...” The claim limitation is presumed to invoke U.S.C. 112, sixth paragraph for using means-plus-function language. Where means for function is used to define the characteristics of a machine or manufacture invention, such language must be interpreted to read on only the structures or material disclosed in the specification and “equivalent thereof” that corresponds to the recited function. However there aren’t any structures or material disclosed in the specification that corresponds to the recited function, specifically loading and unloading of the passenger units.

4. Claims 1-3, 5-12, 14-20, 22, 24-37 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter

which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Re claims 1, 3, 5, 7, 10, 18, 22, 29, 32, and 35 each recites similar limitations of "clutch units", "clutch member", "rotatable clutch", "rotatable clutch member", "clutch tracks" and etc. The specification and the drawing originally filed failed to describe one or more "clutch" structures as claimed. The closest support can be found on page 8, paragraph 46, the support recites "there is an outer platform, clutch platform and inner stationary platform." One of ordinary skill in the art would not be able to associate a clutch unit with a series of planar platforms. None of the disclosure provided by the applicant discloses of clutch units. To satisfy the written description requirement, a patent specification must describe the claimed invention in sufficient detail that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention. See, e.g., *Moba, B.V. v. Diamond Automation, Inc.*, 325 F.3d 1306, 1319, 66 USPQ2d 1429, 1438 (Fed. Cir. 2003); *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d at 1563, 19 USPQ2d at 1116.

Claims 2, 3, 6-12, 14-17, 19, 20, 24-28, 30, 31, 33, 34, 36, and 37 are rejected for their incorporation of the above through dependency of claims 1, 5, 18, 22, 29, 32 and 35.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2, 5-9, 19, 20, 22, 29, 32, 33 and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites "guide member"; Claims 5-7 recite similar limitations of a "rotatable member"; Claims 5 and 9 recite "one or more transfer units"; Claims 8 and 9 recite "stationary units"; claim 19 recites "wheeled based member"; claim 20 recites "passenger unit platform"; claim 22 recites "rotatable planar platform"; claim 29 recites "radial members"; claim 32 recites "support members"; It is unclear to one of ordinary skill in the art how these limitations correlate to the structure in specification and the drawings as originally filed by the applicant. The applicant has provided inconsistent terminology between from the specification and the pending claims, those making the correlation of the components to their supporting disclosures unclear. One of ordinary skill in the art would could not ascertain the *metes and bounds* of the instantly pending claims. For example claim 5 recites "said support arms being attached at a first end to a rotatable member, said rotatable member positioned adjacent to a rotatable clutch...." It is unclear whether the rotatable member is a segment of the support arms, the clutch ring or the outer platform. This and the rest of the claims recited above each contains terminology that is not found in the specification which allows its structure to be realized, therefore the claims are indefinite for failing to particularly point out and distinctly claim the subject matter.

Claims 33 and 34 recite the limitation "one or more radial members". There is insufficient antecedent basis for this limitation in the claim.

Claims 10-12, 14-17, 24-28, 30, and 31 are rejected for their incorporation of the above through their dependency of claims 5, 22 and 29.

Response to Arguments

7. Applicant's arguments with respect to claims 1-3, 5-12, 14-20, 22, 24-37 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KANG HU whose telephone number is (571)270-1344. The examiner can normally be reached on 8-5 (Mon-Thu).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-262-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kathleen Mosser/
Primary Examiner, Art Unit 3715

/K. H./
Examiner, Art Unit 3715